

FINAL ORDER AS TO ALL PARTIES

SPS DISPOSITION

NUMBER 12

**IN THE CIRCUIT COURT OF THE
11th JUDICIAL CIRCUIT OF
FLORIDA, IN AND FOR MIAMI-DADE
COUNTY**

WASHINGTON MUTUAL BANK, F.A.

Plaintiff,

CASE NO: 05-06570 CA 15

v.

**AMI B. ESKANOS and BARRY B.
ESKANOS**

Defendant.

FINAL JUDGMENT OF FORECLOSURE
(Pursuant to Administrative Order 09-09)

THIS ACTION came before the Court on *Plaintiff's Cross Motion for Summary Judgment* on October 29, 2009. On the evidence presented, **IT IS ORDERED AND ADJUDGED** that:

1. The Plaintiff's Motion for Summary Judgment is **GRANTED**. Service of process has been duly and regularly obtained over Defendants: Ami B. Eskanos, Barry B. Eskanos,

Eskanos Enterprises, Washington Mutual Bank, F.A., David Cohen, United States of America, and State Farm Automobile Insurance Company.

2. **Amounts Due.** There is due and owing to the Plaintiff the following:

Principal due on note secured by the mortgage foreclosed:	\$ 366,862.06
Interest on the note and mortgage through October 29, 2009	\$ 113,056.78
Escrow Advances	\$ 59,325.34
Late Fees	\$ 1,578.25
Property Inspections	\$ 44.50
Broker Price Opinions	\$ 725.00
Litigation Costs	Reserved
<u>Reasonable Attorneys' Fees</u>	<u>Reserved</u>

GRAND TOTAL: **\$ 541,591.93**

3. **Interest.** The grand total amount referenced in Paragraph 2 shall bear interest from this date forward at the prevailing legal rate of interest.
4. **Lien on Property.** Washington Mutual, whose address is: 4828 Loop Central Drive, Houston, TX 77081, holds a lien for the grand total sum specified in Paragraph 2 herein. The lien of Washington Mutual is superior in dignity to any right, title, interest or claim of the defendants and all persons, corporations, or other entities claiming by, through, or under the defendants or any of them and the property will be sold free and clear of all claims of the defendants, with the exception of any assessments that are superior pursuant to Florida Statutes, Section 718.116. Washington Mutual's lien encumbers the subject property located in Miami Dade County, Florida and described as:

Lot 3, Block 44, Orchard Subdivision No. 1, according to the Plat thereof, as recorded in Plat Book 6, Page 111, of the public records of Dade County, Florida.

a/k/a 3122 Pinetree Drive, Miami Beach, Florida 33140

5. **Sale of Property.** If the grand total amount with interest at the rate described in Paragraph 3 and all costs accrued subsequent to this judgment are not paid, the Clerk of this Court shall sell the property at public sale on _____, 2009, at 11:00

o'clock a.m. to the highest bidder for cash, except as prescribed in Paragraph 6, at 140 West Flagler Street, Room 908, Miami, Florida, 33130 after having given notice as required by Section 45.031, Florida Statutes.

6. **Costs.** Washington Mutual shall advance all subsequent costs of this action and shall be reimbursed for them by the Clerk if Washington Mutual is not the purchaser of the property at the sale. If Washington Mutual is the purchaser, the Clerk shall credit Washington Mutual's bid with the total sum with interest and costs, accruing subsequent to this judgment or such part of it, as is necessary to pay the bid in full. The Clerk shall receive the service charge imposed in Section 45.031, Florida Statutes, for services in making, recording, and certifying the sale and title that shall be assessed as costs.
7. **Right of Redemption.** On filing the Certificate of Sale, defendant's right of redemption as prescribed by Florida Statutes, Section 45.0315 shall be terminated. If Washington Mutual is the purchaser of the property at the sale, the Clerk shall credit the bid of Washington Mutual with the total sum found to be due to Washington Mutual for such portion thereof as may be necessary to pay fully the bid of Washington Mutual.
8. **Distribution of Proceeds.** On filing the certificate of title, the clerk shall distribute the proceeds of the sale so far as they are sufficient, by paying: first, all of Washington Mutual's costs; second, documentary stamps affixed to the certificate of title; third, Washington Mutual's attorneys' fees; fourth, the total sum due to Washington Mutual, less the items paid, plus interest at the rate prescribed in Paragraph 2 from this date to the date of the sale. During the sixty (60) days after the clerk issues the certificate of disbursements, the Clerk shall hold the surplus pending further Order of this Court.
9. **Right of Possession.** Upon filing of the certificate of title, the defendants and all persons claiming under or against defendant since the filing of the notice of *lis pendens* shall be

foreclosed of all estate or claim in the property, and the purchaser at the sale shall be let into possession of the property.

10. **Attorney Fees.** The Court finds, based upon the affidavits presented and upon inquiry of counsel for Washington Mutual, that reserved hours were reasonably expended by Washington Mutual's counsel and that an hourly rate of \$reserved is appropriate. WASHINGTON MUTUAL'S COUNSEL REPRESENTS THAT THE ATTORNEY FEE AWARDED DOES NOT EXCEED ITS CONTRACT FEE WITH THE PLAINTIFF. The Court finds that there are no reduction or enhancement factors for consideration by the Court pursuant to *Florida Patient's Compensation Fund v. Rowe*, 472 So.2d 1154 (Fla. 1985).

11. **NOTICE PURSUANT TO AMENDMENT TO SECTION, 45.031, FLA. ST. (2006)**

IF THIS PROPERTY IS SOLD AT PUBLIC AUCTION, THERE MAY BE ADDITIONAL MONEY FROM THE SALE AFTER PAYMENT OF PERSONS WHO ARE ENTITLED TO BE PAID FROM THE SALE PROCEEDS PURSUANT TO THIS FINAL JUDGMENT.

IF YOU ARE A SUBORDINATE LIENHOLDER CLAIMING A RIGHT TO FUNDS REMAINING AFTER THE SALE, YOU MUST FILE A CLAIM WITH THE CLERK NO LATER THAN 60 DAYS AFTER THE SALE. IF YOU FAIL TO FILE A CLAIM, YOU WILL NOT BE ENTITLED TO ANY REMAINING FUNDS.

IF YOU ARE THE PROPERTY OWNER, YOU MAY CLAIM THESE FUNDS YOURSELF. YOU ARE NOT REQUIRED TO HAVE A LAWYER OR ANY OTHER REPRESENTATION AND YOU DO NOT HAVE TO ASSIGN YOUR RIGHTS TO ANYONE ELSE IN ORDER FOR YOU TO CLAIM ANY MONEY TO WHICH YOU ARE ENTITLED. PLEASE CHECK WITH THE CLERK OF THE COURT, 140 WEST FLAGLER STREET, ROOM 908, MIAMI, FLORIDA 33130, (305) 375-5943, WITHIN TEN (10) DAYS AFTER THE SALE TO SEE IF THERE IS ADDITIONAL MONEY FROM THE FORECLOSURE THAT THE CLERK HAS IN THE REGISTRY OF THE COURT.

IF YOU DECIDE TO SELL YOUR HOME OR HIRE SOMEONE TO HELP YOU CLAIM THE ADDITIONAL MONEY, YOU SHOULD READ VERY CAREFULLY ALL PAPERS YOU ARE REQUIRED TO SIGN, ASK SOMEONE ELSE, PREFERABLY AN ATTORNEY WHO IS NOT RELATED TO THE PERSON OFFERING HELP TO YOU, TO MAKE SURE THAT YOU UNDERSTAND WHAT YOU ARE SIGNING AND THAT YOU ARE NOT TRANSFERRING YOUR PROPERTY OR THE EQUITY IN YOUR PROPERTY WITHOUT THE PROPER INFORMATION. IF YOU CANNOT AFFORD TO PAY AN ATTORNEY, YOU MAY CONTACT THE LEGAL AID SOCIETY AT THE DADE COUNTY BAR ASSOCIATION, 123 N.W. FIRST AVENUE, SUITE 214, MIAMI, FLORIDA. (TELEPHONE: (305) 579-5733), TO SEE IF YOU QUALIFY FINANCIALLY FOR THEIR SERVICES. IF THEY CANNOT ASSIST YOU, THEY MAY BE ABLE TO REFER YOU TO A LOCAL BAR REFERRAL AGENCY OR SUGGEST OTHER OPTIONS. IF YOU CHOOSE TO CONTACT THE DADE COUNTY BAR ASSOCIATION LEGAL AID, YOU SHOULD DO SO AS SOON AS POSSIBLE AFTER RECEIPT OF THIS NOTICE.

12. **Jurisdiction.** The Court retains jurisdiction of this action to enter further orders that are proper, including, without limitation, writs of possession and deficiency judgments.

DONE AND ORDERED in chambers in Miami-Dade County, Florida, this _____ day of December 2009.

Signed and Dated
The Honorable Israel Reyes

DEC 09 2009

Judge Israel Reyes

Cc:
Kimberly Leary, Akerman Senterfitt,
350 East Las Olas Boulevard, Suite 1600, Fort Lauderdale, Florida 33301;
Danny E. Eskanos, Esq.,
783 Wildflower Drive, Palm Harbor, Florida 34683;
Washington Mutual Bank, FA,
400 East Main Street, Stockton, CA 95202;
David Cohen,
11720 Biscayne Blvd., Miami, Florida 33181;
United States of America, c/o Grisel Alonso, Esq.,
99 Northeast 4th Street, 3rd Floor, Miami, Florida 33132; and
State Farm Mutual Automobile Insurance Company, c/o Rick Wilson,
7401 Cypress Gardens Blvd., Winter Haven, Florida 33888.